

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *
UNITED STATES OF AMERICA
v.
ALKIS NAKOS
* * * * *

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* 14-cr-93-01-LM
* August 19, 2015
* 2:10 p.m.
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DAY 2 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE LANDYA B. MCCAFFERTY
AND A JURY

Appearances:

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I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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JEAN DROUIN

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RICHARD LAPOINT

By Ms. Ollila	65			
By Mr. Sheketoff	(no questions)			

GREGORY WOODY

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MICHAEL BERGERON

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By Mr. Sheketoff	(no questions)			

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BEFORE THE JURY

MS. OLLILA: May I proceed, your Honor?

THE COURT: You may. Go ahead.

DIRECT EXAMINATION cont'd

BY MS. OLLILA:

Q. Good afternoon, Special Agent Drouin.

A. Good afternoon.

Q. I neglected to ask you a couple questions early on. One was that when you initiate an investigation, a large investigation, do you typically give it a name?

A. Yes. Investigations that involve a lot of other DEA and state investigations and other jurisdictions, other states, there's just a lot of information out there, a lot of evidence, we usually title that investigation a name so that people know what to refer to when they collect their evidence and intelligence and so forth.

Q. What was the name of this investigation?

A. This was investigation Brownshirt it was called.

Q. Do you know why it was named Brownshirt?

MR. SHEKETOFF: Objection.

THE COURT: Maybe perhaps lay more of a foundation.

1 MS. OLLILA: I'm just curious, Judge. And
2 I'll strike the question.

3 Q. Special Agent Drouin, when individuals are
4 arrested and processed, do you have to turn over your
5 reports involving your investigation of them?

6 A. Yes.

7 Q. And what type of reports do you turn over?

8 A. All the DEA investigative reports that we do,
9 any local or state reports that we collect along the
10 way, photographs, evidence, everything, lab results and
11 so forth, we turn that over for discovery.

12 Q. What about video surveillance taken during the
13 course of the investigation, do you turn that over?

14 A. Yes, we so.

15 Q. And why do you turn that over?

16 A. Well, that's all part of the discovery
17 process. Everything we pretty much gather during the
18 investigation, we turn it over.

19 Q. What about when individuals cooperate with
20 you, do you take their statement?

21 A. Yes. We usually write a report and we turn
22 that report over to the prosecutor.

23 Q. Why?

24 A. Because it's part of the discovery process.

25 Q. Don't you want to shield the names of any

1 individuals who are cooperating?

2 A. You do, yes.

3 Q. Are you required to turn that over to
4 prosecutors?

5 A. We have to turn that over to prosecutors, yes.

6 Q. How many different states were involved in
7 this investigation?

8 A. There were at least five different states
9 involved in this investigation.

10 Q. And what were those five states?

11 A. New Hampshire, Vermont, Massachusetts, New
12 York, two different, upstate New York, New York City,
13 Long Island, Florida, California, and Chicago, Illinois.

14 Q. During your investigation did you gather
15 reports from all of those law enforcement agencies?

16 A. I believe so, yes.

17 Q. And did you turn them over to the prosecutor?

18 A. Yes.

19 Q. Do you know what the concept discovery is?

20 A. The definition, no. I know the concept, yes.

21 Q. What is it?

22 A. It's just a, you have a certain amount of time
23 to turn over all your reports and all your evidence that
24 you made during the course of your investigation,
25 including photographs and drug exhibits and all that to

1 the prosecutor, and they in turn have to turn that over
2 to the defense.

3 Q. Now, let's go back to the 58-pound seizure
4 from David Coulombe where you showed the jury the dark
5 blue duffle bag that was in his motor vehicle and then
6 two other duffle bags located at 140 Allied Street, do
7 you recall that?

8 A. Yes.

9 Q. I'm going to show you some exhibits that have
10 been marked. 9h-1, 9h-2, 9h-3, 9h-4, 9h-5, 9h-6 and
11 9h-7. I'll ask you to review those photographs.

12 A. Okay.

13 Q. Do you know what those photographs are?

14 A. Yes.

15 Q. What are they of?

16 A. This is the Expedition that David Coulombe was
17 driving and the drugs that were inside.

18 Q. Are those photographs a fair and accurate
19 depiction of the vehicle at the time it was searched and
20 seized?

21 A. Yes.

22 Q. Thank you.

23 MS. OLLILAL: Your Honor, I'd ask that the ID
24 be stricken on Government's 9h-1 all the way through
25 9h-7.

1 MR. SHEKETOFF: No objection.

2 THE COURT: All right, those Ids are stricken.
3 9h-1 through 9h-7 are full exhibits.

4 (Government's Exhibits 9h-1 thru
5 9h-7 admitted.)

6 MS. OLLILA: Diane, would you please pull up
7 9h-1.

8 Q. Special Agent Drouin, you're looking at
9 Government's Exhibit 9h-1 which is entered into full
10 evidence. What is that a picture of?

11 A. That is the Ford Expedition that was driven by
12 David Coulombe.

13 MS. OLLILA: Please call up 9h-2, Diane.

14 Q. And what is this a picture of, Special Agent
15 Drouin?

16 A. That's the rear of that same vehicle.

17 MS. OLLILA: And Diane, please pull up 9h-3.

18 Q. What is it that the jury is looking at in this
19 photograph?

20 A. You're looking at the front passenger seat
21 with a trash bag on the floor in front of the seat which
22 contained marijuana.

23 Q. Say that again?

24 A. Which contained marijuana.

25 Q. That white trash bag?

1 A. Yes.

2 Q. And there's another gray trash bag there. Did
3 that also contain marijuana?

4 A. I don't remember.

5 Q. Okay. Fair enough.

6 MS. OLLILA: Diane, please pull up 9h-4.

7 Q. Special Agent Drouin, what is this a picture
8 of?

9 A. That's a hockey bag.

10 Q. And what was contained in that hockey bag?

11 A. The marijuana.

12 MS. OLLILA: And Diane, please pull up 9h-5.

13 Q. Okay, 9h-5 is now up, Special Agent Drouin.

14 A. That's the same bag, just a different angle of
15 it.

16 Q. Okay. Is that the bag that you pulled out of
17 the box and showed to the jury?

18 A. Yes.

19 Q. And what is the tag that is on that bag?

20 A. Says NH.

21 MS. OLLILA: Diane, can you pull up 9h-6.

22 Q. What is this a photograph of?

23 A. The same bag.

24 Q. Now, when marijuana is seized, what happens to
25 it?

1 A. It's usually put in a drug locker or drug
2 vault. I believe this marijuana was stored at the
3 Manchester police drug vault.

4 Q. And was it tested?

5 A. Yes.

6 Q. Did it test positive for the presence of
7 marijuana?

8 A. Yes.

9 Q. In the approximate weight of 58 pounds?

10 A. Yes.

11 Q. Special Agent Drouin, the pricing of
12 marijuana, are you familiar with the pricing of Canadian
13 marijuana?

14 A. Yes.

15 Q. What would the pricing be per pound generally?

16 MR. SHEKETOFF: Objection. Just the time
17 frame.

18 THE COURT: All right. Ask a time.

19 Q. In 2008, 2009 what was the pricing of a pound
20 of hydroponic Canadian marijuana, high grade?

21 A. The high grade marijuana from Canada ranged
22 anywhere, depending on the quality, anywhere from
23 probably \$2,000 a pound to upwards of \$5,000 a pound.

24 Q. Do you know whether there's a difference
25 between Canadian marijuana and Mexican marijuana?

1 A. Yes.

2 Q. What is the difference between the two?

3 A. Mexican marijuana is usually lower grade.
4 It's grown outdoors in heat. Generally the marijuana
5 that we get that comes in from Mexico is not as high
6 grade because it's grown outdoors and it's cheaper.

7 Q. So what would a pound of Mexican marijuana
8 cost approximately?

9 A. Probably an average --

10 MR. SHEKETOFF: Objection, just time frame.

11 MS. OLLILA: I'm sorry?

12 THE COURT: Go ahead.

13 Q. The questions I'm asking you, I'm referring to
14 the 2008 and 2009 time frame. What would a pound of
15 Mexican marijuana be in 2008 and 2009?

16 A. On the average around \$800 a pound.

17 Q. After February 4th did something happen on or
18 around April 2nd, 2009. And before you answer that, do
19 you know what the videotape surveillance outside
20 residences, do you often use that?

21 A. Yes.

22 Q. Why do you use it and how do you use it?

23 A. Sometimes we will set up hidden cameras on
24 usually public property and we try to set up a camera
25 that overlooks maybe a drug residence that's being used

1 for drugs or apartment building or stash house or
2 whatever. It aids us because then we're not seen out on
3 the street in our cars which could make us on
4 surveillance.

5 Q. What does that mean, being made on
6 surveillance?

7 A. Well, usually the people that you're
8 investigating, you don't want them to know that they are
9 being watched, so sometimes you can set up cameras
10 looking over there, so if they look out on the street
11 they don't see a person in plain clothes just sitting
12 there in his car watching.

13 Q. Is it your experience that individuals who are
14 involved in drug trafficking are highly cautious of
15 being surveilled by law enforcement?

16 A. Yes.

17 Q. Videotaping with a live feed, does that assist
18 law enforcement greatly?

19 A. Yes.

20 Q. Did you employ that in this case? Did you
21 have a live feed focused on a residence in Manchester,
22 New Hampshire?

23 A. Yes.

24 Q. And what was the address of the address?

25 A. 10 Delaware Avenue.

1 Q. And who was living there at the time?

2 A. Nick Champagne.

3 Q. Let me show you what has been marked for
4 identification as Government's Exhibit 12a. What is
5 12a, Special Agent Drouin?

6 A. 12a looks like the email I sent to you with
7 all the photographs that we captured from 10 Delaware
8 Avenue in Manchester.

9 Q. Now I'm going to show you Government's Exhibit
10 12b-1 all the way through 12b-11. And these have
11 already been admitted into evidence by stipulation of
12 the parties. Do you recognize what those pictures are?

13 A. Yes, that's 10 Delaware Avenue.

14 Q. Are those the photographs that you sent to me
15 in an email that was captured in Government's
16 Exhibit 12a?

17 A. Yes.

18 Q. Have you reviewed those photographs?

19 A. Yes.

20 Q. Are they a fair and accurate depiction of the
21 way that residence looked at the time that the camera
22 was up?

23 A. Yes.

24 Q. And I'm talking about in early 2009, okay?

25 A. Yes.

1 MS. OLLILA: Diane, please pull up 12b-1.

2 Q. Special Agent Drouin, what is the jury looking
3 at now?

4 A. So the house on the corner is the 10 Delaware
5 Avenue.

6 Q. What color is the house that you're looking
7 at?

8 A. I believe it's white, split level home.

9 Q. Please pull up 12b-2. What is this a
10 photograph of?

11 A. The same house with a Ford Expedition pulling
12 out of the driveway.

13 Q. Please pull up 12b-4. Special Agent Drouin,
14 how many individuals appear to be in this photograph?

15 A. Three.

16 Q. Why did you want to capture a screen shot of
17 that image?

18 A. That specific image?

19 MR. SHEKETOFF: Object.

20 THE COURT: What's the basis?

21 MR. SHEKETOFF: His state of mind. What
22 relevance is it.

23 THE COURT: What is the relevance why he
24 wanted to capture this particular screen shot.

25 MS. OLLILA: Because it contains a photograph

1 of the defendant.

2 THE COURT: Okay. You can ask him who's in
3 the photograph.

4 MS. OLLILA: Of course.

5 THE COURT: Okay, go ahead.

6 Q. Special Agent Drouin, do you know any of the
7 individuals who indicated in that picture?

8 A. Yes.

9 Q. And who do you know?

10 A. The person on the far right who appears to be
11 on his cellular phone is Nick Champagne.

12 Q. Anyone else you recognize?

13 A. The person on the far left in the black
14 T-shirt and jeans is the defendant, Mr. Nakos.

15 Q. Do you see Mr. Nakos in the courtroom today?

16 A. Yes, I do.

17 Q. Could you please point to him and describe an
18 article of clothing he's wearing.

19 A. He's wearing a gray suit with a beard next to
20 Mr. Sheketoff.

21 MS. OLLILA: May the record reflect that the
22 witness has identified the defendant Alkis Nakos.

23 THE COURT: The record will so reflect.

24 Q. At the time these images were captured, did
25 Alkis Nakos look the same as he does today?

1 A. No.

2 MS. OLLILA: Diane, please pull up 12b-5.

3 Q. Do you know who that individual is that is
4 represented in Government's Exhibit 12b-5?

5 A. Mr. Nakos.

6 MS. OLLILA: Diane, please pull up 12b-7.

7 Q. Do you recognize the individual depicted in
8 Government's Exhibit 12b-7?

9 A. Mr. Nakos.

10 Q. It appears that he had a different shirt on
11 there. Is that a sweatshirt?

12 A. Yes.

13 Q. What does it look like he's doing there?

14 A. Moving furniture.

15 MS. OLLILA: Diane, please pull up 12b-8.

16 Q. Do you know the individual depicted in
17 Government's Exhibit 12b-8?

18 A. Mr. Nakos.

19 Q. Please pull up 12b-9. Who is the individual
20 depicted in Government's Exhibit 12b-9?

21 A. Nick Champagne.

22 Q. And please pull up 12b-11. Who is the
23 individual depicted in Government's Exhibit 12b-11?

24 A. Nick Champagne.

25 Q. Now, let me back you up. Do you recall when

1 these images were taken?

2 A. April 2nd, 2009.

3 Q. Was there videotape surveillance conducted at
4 that same residence on December 30th, 2008?

5 A. Yes.

6 Q. Okay. I'm showing you what has been marked as
7 Government's Exhibit 6a. Do you recognize what that is?

8 A. Yes.

9 Q. Is that a copy, a CD rom of the videotape
10 surveillance that was conducted on that date?

11 A. Yes.

12 Q. Have you seen that videotape surveillance?

13 A. Yes.

14 Q. Is it a fair and accurate depiction of the
15 videotape that was captured on December 30th, 2008?

16 A. Yes.

17 MS. OLLILA: Your Honor, I move to strike the
18 ID on Government's 6a and have it entered into full
19 evidence.

20 THE COURT: Any objection?

21 MR. SHEKETOFF: No objection.

22 THE COURT: All right, 6a is a full exhibit.
23 (Government's Exhibit 6a admitted.)

24 MS. OLLILA: Diane, please pull up 6a.

25 Q. Now, before you play it, Special Agent Drouin,

1 what is it we're looking at?

2 A. That is the rear door of 10 Delaware Avenue.

3 MS. OLLILA: Now Diane, can you do a split
4 screen on this, Diane, is that possible, and pull up
5 12b-1?

6 Q. So 12b-1 is a photograph of what?

7 A. That's 10 Delaware Avenue. You're looking at
8 the front of it.

9 MS. OLLILA: Okay, now pull up 6a again,
10 Diane, please. You can exit out of that if you want.

11 Q. So the photograph, the video on the left,
12 pause it, is the rear of the same residence, 10 Delaware
13 Avenue; is that correct?

14 A. Yes.

15 MS. OLLILA: Now Diane, what I want you to do
16 is play the video.

17 Q. And Special Agent Drouin, before you do that,
18 did you see that the door is open on the video that is
19 depicted in Government's Exhibit 6a?

20 A. Yes.

21 Q. Do you recognize who is opening up that door?

22 A. Looks like Nick Champagne.

23 MS. OLLILA: Play it, Diane.

24 (Video being played.)

25 Q. Do you know who was taking that video?

1 A. Yeah, it was Sergeant Moore.

2 (Video continuing to play.)

3 Q. Do you see what an individual is carrying out
4 of that residence?

5 A. Yes.

6 Q. What was it?

7 A. A large Home Depot box.

8 MS. OLLILA: Keep playing, Diane

9 (Video continuing to play.)

10 Q. The second individual that came in, at the
11 time did you know who that second individual was?

12 A. At the time I did not.

13 Q. Were you able to identify him at that time?

14 A. Later on we did, yes.

15 Q. Did it become a mystery to you for a period of
16 time as to who he was?

17 A. Yes.

18 Q. Special Agent Drouin, let me show you, you've
19 just identified pictures of Alkis Nakos that were taken
20 from the camera while there was movement at 10 Delaware
21 Street. Have you obtained other images of the defendant
22 Alkis Nakos?

23 A. Yes.

24 Q. And did you obtain those images during the
25 course of your investigation?

1 A. Yes.

2 Q. And why did you obtain those images?

3 MR. SHEKETOFF: I'll object, your Honor.

4 THE COURT: I think he's objecting to his
5 motive, his state of mind again, and so ask it
6 differently. Go ahead. Objection sustained.

7 Q. Did you obtain images?

8 A. Yes.

9 Q. Let me show you what is marked as Government's
10 52c. Do you recognize what 52c is?

11 A. Yes.

12 Q. What is that?

13 A. That's a picture of Alkis Nakos.

14 Q. Did you obtain that?

15 A. Yes.

16 MS. OLLILA: Your Honor, I'd ask that the ID
17 be stricken on Government's 52c and be entered into full
18 evidence.

19 MR. SHEKETOFF: I'd like to look at it.

20 THE COURT: 52c did you say?

21 MS. OLLILA: Yes.

22 THE COURT: 52c.

23 MR. SHEKETOFF: I have no objection.

24 THE COURT: All right, 52c is a full exhibit.

25 (Government's Exhibit 52c admitted.)

1 MS. OLLILA: Diane, will you please pull up
2 52c.

3 Q. Who is that depicted in Government's
4 Exhibit 52c?

5 A. Mr. Nakos.

6 Q. The images that you obtained from that pole
7 camera, you said you obtained them on April 2nd, 2009;
8 correct?

9 A. Yes.

10 Q. Did something happen two days later on
11 April 4, 2009?

12 A. Yes.

13 Q. What happened then?

14 A. I was following one of the Canadian couriers,
15 actually there was two females by the name of named Neda
16 Shojaei and Kim LaPorte who are now working for the same
17 Canadian organization, and I had a GPS on the car that
18 they were driving, and I noticed that they were driving
19 to New Hampshire. So I followed them and I saw them
20 drive up to the Burger King parking lot in Manchester
21 on, I forget the name of the road, I think it's 3A.

22 Q. Manchester where, what state?

23 A. Manchester, New Hampshire.

24 Q. Okay.

25 A. And these two females parked at the Burger

1 King in the back parking lot and they sat there and
2 waited. And then a short time later I saw Nick
3 Champagne arrive in his silver Honda. He took a black
4 duffle bag out of the back of his car and he walked over
5 and he handed the black duffle bag into the car that the
6 two females were in, and then he went back in his Honda
7 and left, and then Neda Shojaei and Kim LaPorte drove
8 away with that black bag.

9 Q. Did you radio law enforcement authorities and
10 have those two females stopped?

11 A. Yes. I followed them a little further, they
12 made a couple stops, and then they went south back into
13 Massachusetts, and I called a Massachusetts state
14 trooper, and he conducted a traffic stop of that
15 vehicle.

16 Q. And what was located inside the vehicle?

17 MR. SHEKETOFF: Objection.

18 THE COURT: What's your basis?

19 MR. SHEKETOFF: Hearsay.

20 THE COURT: Objection sustained.

21 Q. Do you know what was in the vehicle, and if
22 so, how do you know?

23 A. I know because I was on the phone with the
24 trooper who made the stop during the stop.

25 Q. Did you see ultimately what was taken during

1 the stop?

2 A. I saw the bags.

3 Q. Okay. And what was contained in the bags?

4 A. U.S. currency.

5 MR. SHEKETOFF: Objection.

6 THE COURT: What's your objection?

7 MR. SHEKETOFF: Source. I mean, it's hearsay
8 unless he tells me that he -- I thought what he said was
9 I saw the bags. Now she's asking what's inside the
10 bags. If he saw what's inside the bags, I have no
11 problem with it. But I can't tell from the question
12 whether he just saw the bags and he's going to volunteer
13 what somebody told him.

14 THE COURT: Objection sustained and Attorney
15 Ollila is going to rephrase. Go ahead.

16 Q. Did you see what was inside the bag?

17 A. No.

18 Q. Okay. Now, what happened two days later, if
19 you know, on April 6, 2009 -- and by the way -- strike
20 that. What happened to the two females?

21 A. After they were stopped, I believe the next
22 day I followed the two females and they went and
23 returned rental car and got a different rental car, and
24 they were now with two other Canadian citizen females,
25 and the four of them I tracked the car down to New York

1 City.

2 Q. Okay, I want you to stop there. I want to
3 show you what is marked as Government's Exhibit 52k. Do
4 you recognize what that photograph is of?

5 A. Yes.

6 Q. Why do you recognize it?

7 A. Because I took it.

8 Q. What is the photograph of?

9 A. It's the photograph of Neda Shojaei and Kim
10 LaPorte, the two females that received the bag from Nick
11 Champagne.

12 Q. When did you take this photograph?

13 A. That would have been April 5th I believe.

14 MS. OLLILA: Your Honor, I'd ask that the ID
15 be stricken and Government's Exhibit 52k be entered into
16 full evidence.

17 MR. SHEKETOFF: No objection.

18 THE COURT: 52k is a full exhibit.

19 (Government's Exhibit 52k admitted.)

20 Q. Please pull up 52k. Special Agent Drouin,
21 you're looking at 52k, and who are those women?

22 A. That's Neda Shojaei on the right and Kim
23 LaPorte on the left.

24 Q. Did something happen on May 27, 2009, in New
25 Hampshire?

1 A. Yes.

2 Q. Was there a seizure of some type?

3 A. Yes.

4 Q. What was seized?

5 A. A hundred pounds of marijuana.

6 Q. Can you tell the jury how that happened?

7 A. Yes.

8 Q. And how did it happen?

9 A. I was tracking another Canadian courier that
10 was working for this organization. I saw that he had,
11 was coming down from Vermont, I believe, and he went to
12 the Tri-Town Ice Arena located in Hooksett, New
13 Hampshire. So we went over there and did surveillance.
14 We saw him pull into the parking lot of the ice rink and
15 he met with an individual driving a Dodge Charger who we
16 identified as Michael Gardner. I saw Michael Gardner
17 and this Canadian whose name was Jeremy St. Pierre take
18 two hockey bags out of the Canadian's car and put it
19 into Michael Gardner's Charger he was driving, and then
20 the two cars split up.

21 Q. The Charger that Michael Gardner was driving,
22 did you know what type of plate he had as far as the
23 state was concerned?

24 A. I forget.

25 Q. Is Michael Gardner a resident of New

1 Hampshire?

2 A. Yes.

3 Q. Let me show you what is marked and entered
4 into full evidence by stipulation of the parties as
5 Government's Exhibit 17h-1 through 17h-11, and I'll ask
6 if you would review those photos.

7 (Pause.)

8 A. Okay.

9 Q. What are those photos of?

10 A. Photos of the Dodge Charger that was driven by
11 Michael Gardner.

12 MS. OLLILA: Diane, please pull up 17h-1.

13 Q. What is depicted in 17h-1, Special Agent
14 Drouin.

15 A. The Dodge Charger that was driven by Michael
16 Gardner.

17 Q. Please pull up 17h-2. And what is 17h-2 a
18 photograph of?

19 A. Another picture of the vehicle.

20 Q. 17h-3. What is this a photograph of, Special
21 Agent Drouin?

22 A. Do you mind if I turn around because the image
23 is --

24 Q. Yes.

25 A. That's the trunk open on that vehicle.

1 Q. Now let me show you a close-up. 17h-4. What
2 is 17h-4?

3 A. That was one of the duffle bags that was in
4 the trunk.

5 Q. 17h-5, please. Special Agent Drouin, what is
6 17h-5?

7 A. Those were the two hockey bags that were in
8 the trunk of Mr. Gardner's Dodge Charger.

9 Q. Did you see whether or not they had any labels
10 on them?

11 A. Yes.

12 Q. And what are the labels?

13 A. They both say NH.

14 Q. I'm going to give you some gloves again and
15 ask that you put these on.

16 A. That's okay, I don't need the gloves.

17 Q. Oh, okay.

18 MS. OLLILA: May the witness come over here,
19 judge?

20 THE COURT: Yes.

21 Q. Special Agent Drouin, I am showing you what is
22 now 17b-1 for identification. Do you recognize what
23 this is?

24 A. Yes.

25 Q. What is it?

1 A. It's one of the hockey bags that was in the
2 car.

3 THE COURT: I'm sorry, I couldn't hear.

4 THE WITNESS: That's one of the hockey bags
5 that was in the Charger.

6 Q. And I'm showing you 17b-1 also. What is this?

7 A. That was the other hockey bag.

8 MS. OLLILA: Your Honor, I'd ask that the ID
9 be stricken on these exhibits and they be entered into
10 full evidence.

11 MR. SHEKETOFF: No objection.

12 THE COURT: All right. 17b-1 -- 17b-1 and b2?

13 MS. OLLILA: No, they're both b-1 because they
14 are in the same box.

15 THE COURT: Okay. 17b-1 is a full exhibit.

16 (Government's Exhibit 17b-1
17 admitted.)

18 Q. What I'd ask you to do is hold up the bag so
19 the jury can see. And interestingly there's a sticker
20 on top. Do you know where the sticker comes from?

21 A. State police evidence sticker.

22 Q. So this has nothing to do -- this is the
23 forensics examination sticker; correct?

24 A. Yes.

25 Q. Now, there's a label inside the duffle bag; is

1 that correct?

2 A. Correct.

3 Q. Will you please pull that out.

4 A. (Witness doing so.)

5 Q. And show it to the jury. What does it say?

6 A. NH.

7 Q. And turn it around. What does that say?

8 A. 50.

9 Q. Do you know what 50 is a reference to?

10 A. 50 pounds.

11 Q. Of what?

12 A. Marijuana.

13 Q. Do the same thing on the second bag. Do you
14 recognize what this bag is?

15 A. Yes.

16 Q. There's another label on the bag. What is the
17 label?

18 A. State police evidence label.

19 Q. Would you please pull out the tag that is in
20 the tag holder for the duffle bag and show the tag to
21 the jury. What does it say?

22 A. NH.

23 Q. Turn it around. What does it say on the back?

24 A. 50.

25 Q. What is that a reference to?

1 A. 50 pounds of marijuana.

2 Q. How much marijuana was seized in this bag?

3 A. Approximately 50 pounds.

4 Q. How much marijuana was seized in this bag?

5 A. Approximately 50 pounds.

6 Q. What's the value of a hundred pounds of
7 Canadian high grade marijuana?

8 A. Anywhere from \$2,000 a pound to \$5,000 a
9 pound.

10 Q. Couple hundred thousand dollars?

11 A. Yes, minimum.

12 MS. OLLILA: Diane, will you please pull up
13 17h-6.

14 Q. Special Agent Drouin, what is 17h-6?

15 A. That's a picture of the zippers and the gold
16 lock that's on the hockey bag.

17 Q. Please pull up 17h-8. What is this a picture
18 of depicted in 17h-8, Special Agent Drouin?

19 A. That's the marijuana contained within the
20 hockey bags.

21 Q. Do you see whether there's any writing on the
22 outside of the bag?

23 A. Yes.

24 Q. What does it say?

25 A. Reg.

1 Q. Do you know what that means?

2 A. That's the grade, regular, they call it
3 regular.

4 Q. Now, with respect to marijuana cases you said
5 that is the grade, is that what you just testified to?

6 A. Yes.

7 Q. Are there different qualities or names to
8 strains of marijuana?

9 A. Yes.

10 Q. How many different strains, I'm going to put
11 you on the spot here, how many different strains of
12 marijuana have you seen in your career?

13 A. A lot of different ones.

14 Q. What's that mean, a lot of different ones?

15 A. I've seen different strains which I believe is
16 different grades of marijuana, different ways they grow
17 it. They give it all names to identify the actual type
18 of marijuana that they're selling.

19 Q. Are you able to give any types of marijuana
20 that you've ever seen?

21 A. Did I ever write the type on the bag, is that
22 what you're asking?

23 Q. Yes -- no, you, what are some examples of
24 strains of marijuana, the names of the strains?

25 A. Kush , BC Bud, I've seen red, purple Kush,

1 there's different names that I've seen in the past.

2 Q. Okay. Special Agent Drouin, that seizure of
3 the hundred pounds -- oh, by the way, the marijuana
4 seized on that date, was it tested?

5 A. Yes.

6 Q. Did it test positive for the presence of
7 marijuana?

8 A. Yes.

9 Q. In the approximate amount of how much?

10 A. A hundred pounds.

11 Q. In June of 2009 what was your plan to do with
12 the end of the investigation, if you had one?

13 A. Yes. We identified all the Canadian couriers
14 and how they were bringing the marijuana into the
15 country from Canada. We identified two houses near the
16 Canadian border where they were moving the marijuana
17 into once they got it across the border, so I applied
18 for and received a search warrant for both of those
19 houses and arrest warrants for many people.

20 Q. You said arrest warrants for many people. In
21 Operation Brownshirt do you know how many individuals
22 were arrested and prosecuted?

23 A. In the whole operation?

24 Q. Yes.

25 A. At least 40.

1 Q. Let me show you what is marked as Government's
2 Exhibit 18a for identification and I'll ask if you
3 recognize what Government's Exhibit 18a is?

4 A. That's a search warrant for the two residences
5 in Vermont that we conducted.

6 Q. Who is the affiant on that search warrant?

7 A. I was.

8 Q. Let me show you what is marked as Government's
9 Exhibit 18k-1, 18k-2, 18k-3 and 18k-4. Do you recognize
10 what those photographs are?

11 A. Yes.

12 Q. What are those photographs?

13 A. That was the house on the Canadian border in
14 Vermont located on Wallace Pond that we searched.

15 Q. How far from Canada was that house?

16 A. Well, it was on the pond, it was on the
17 waterfront, and half of the pond is in Canada, the other
18 half is in the U.S.

19 MS. OLLILA: These exhibits have been entered
20 into full evidence by stipulation of the parties.

21 Diane, please pull up 18k-1.

22 Q. Special Agent Drouin, what is that a
23 photograph of?

24 A. That's one of the views of the house that we
25 searched on the pond, on the border.

1 Q. Please pull up 18k-2. What is this a
2 photograph of?

3 A. That's right in front of the house. That's
4 the pond.

5 Q. Now, looking across the water to the trees,
6 what is it you're looking at?

7 A. Canada.

8 Q. Please pull up 18k-1 -- I'm sorry, hyphen 3 --
9 18k-3. What is 18k-3?

10 A. Those are the various cell phones that we
11 seized in that residence and walkie-talkies.

12 Q. And please pull up 18k-4. What is this a
13 photograph of depicted in 18k-4?

14 A. Those are three hockey bags that we found in
15 the basement of that residence.

16 Q. And can you see whether there are any markings
17 on any of those bags that are the same?

18 A. Yes.

19 Q. And what are the markings that are the same?

20 A. It says ITL on the bags.

21 Q. Let me show you again what was recovered from
22 the residence of David Coulombe and ask if there are any
23 initials that are similar on this exhibit, which is
24 Government's Exhibit 9g-4, with the photograph you're
25 looking at?

1 A. Yes. The label says ITL.

2 Q. And what does the label on two of those bags
3 say?

4 A. It's written ITL.

5 Q. What was contained in those bags?

6 A. Marijuana.

7 Q. Approximately how much?

8 A. 50 pounds in each bag for a total of
9 approximately 150 pounds.

10 Q. Was the marijuana tested?

11 A. Yes.

12 Q. Did it test positive for the presence of
13 marijuana?

14 A. Yes.

15 Q. What's the value as of 2008 and 2009 of that
16 much marijuana?

17 A. That's at the low end 2,000 a pound, so, 200,
18 300,000.

19 Q. Let me show you what has been marked and
20 agreed by stipulation of the parties to be entered into
21 full evidence as Government's Exhibit 18e-1, 18e-2,
22 18e-3, 4, 5 and 6. I'll have you go through these
23 photographs, Special Agent Drouin. Do you recognize
24 what they are?

25 A. Yes.

1 Q. What are they?

2 A. These are photographs of the second house
3 where we conducted a search warrant in Vermont.

4 Q. And where was that house located at if you
5 recall?

6 A. This was in Sutton, Vermont, which is about
7 40, 30 to 40 minutes south of the Wallace Pond house.

8 MS. OLLILA: Diane, please pull up 18e-1.

9 Q. Special Agent Drouin, what is depicted in
10 18e-1?

11 A. That's the house in Sutton, Vermont, that we
12 searched.

13 Q. Please pull up 18e-2. What is depicted in
14 this photograph?

15 A. Three hockey bags.

16 Q. What was located in the hockey bags?

17 A. I believe two of them contained marijuana.

18 Q. How much marijuana, if you know?

19 A. A hundred pounds.

20 Q. Was the marijuana tested?

21 A. Yes.

22 Q. Did it test positive for the presence of
23 marijuana?

24 A. Yes.

25 Q. Please pull up 18e-4. What is this a

1 photograph of?

2 A. The marijuana within the bag that is labeled.

3 Q. That has a label. Do you know what that
4 means, DSL?

5 A. Yes. It's short for diesel.

6 Q. What does that mean?

7 A. Diesel is another high grade marijuana from
8 Canada that I've seen before, another name.

9 Q. Please pull up 18e-5. What is this a
10 photograph of?

11 A. That's little gold locks that we have seen on
12 the other bags.

13 Q. Is that consistent with the gold locks on the
14 bags seized from David Coulombe containing 58 pounds of
15 marijuana and the gold locks on the bags seized from
16 Michael Gardner containing one hundred pounds of
17 marijuana?

18 A. Yes.

19 Q. Please pull up 18e-6. What do you see in
20 18e-6?

21 A. More marijuana from within the bags.

22 Q. It says Kush. What is Kush?

23 A. That's another name given to a grade of
24 marijuana.

25 Q. What type of grade is that, high grade, low

1 grade, medium grade?

2 A. Kush is high grade.

3 Q. Were there individuals arrested at that
4 residence?

5 A. Yes.

6 Q. Let me show you what is marked for
7 identification as Government's Exhibit 52h and 52i. Do
8 you recognize those photographs?

9 A. This is a photograph of Trevor Allain.

10 MS. OLLILA: Your Honor, I'd ask that the ID
11 be stricken on Government's Exhibit 52h and 52i.

12 MR. SHEKETOFF: I have no objection.

13 THE COURT: 52h and 52i are full exhibits.
14 (Government's Exhibit 52h and 52i
15 admitted.)

16 MS. OLLILA: Please pull up 52h, Diane.

17 Q. Who is depicted in 52h?

18 A. That's Trevor Allain.

19 Q. Did you ever see him in New Hampshire?

20 A. Yes.

21 Q. When?

22 A. He was staying at the house in Chester with
23 the Canadian couriers and he was also in the minivan
24 that went to the warehouse and Massachusetts state
25 police stopped them when they had the Home Depot boxes

1 in the minivan.

2 Q. Please pull up 52i. Who is this a photograph
3 of?

4 A. Same person.

5 Q. Let me show you what is 52f. I'd ask you if
6 you recognize what that photograph is?

7 A. Yes.

8 Q. What is it?

9 A. That's a photograph of Nick Champagne.

10 MS. OLLILA: Your Honor, I'd ask that the ID
11 be stricken on 52f and that it be entered into full
12 evidence.

13 THE COURT: Any objection?

14 MR. SHEKETOFF: I have no objection.

15 THE COURT: 52f is a full exhibit.

16 (Government's Exhibit 52f admitted.)

17 MS. OLLILA: Please pull it up, Diane, 52f.

18 Q. What is this a photograph of?

19 A. Nick Champagne.

20 Q. At some point in time you had just mentioned a
21 residence I think you said in Chester; is that correct?

22 A. Yes.

23 Q. What about that residence in Chester. Was
24 there someone staying there?

25 A. There were several Canadian couriers that were

1 staying there.

2 Q. Did you recover ledgers from that residence at
3 the end of your investigation?

4 A. Yes.

5 Q. I'm showing you what has been entered into
6 full evidence by stipulation of the parties as
7 Government's Exhibit 22c, 22d and 22e. Do you recognize
8 what those exhibits are?

9 A. Yes.

10 Q. What are they?

11 A. These are the ledgers that were given to us by
12 the owner of the residence after all the couriers were
13 arrested.

14 Q. What is a drug ledger, Special Agent Drouin?

15 A. It's a way for the drug dealer to keep a
16 record of drugs coming in, drugs going out, and
17 collection of money, they keep their own records.

18 Q. Has it been your experience with your
19 investigating of drug traffickers that individuals use
20 their real names in ledgers?

21 A. No, I've never seen that happen.

22 Q. Why?

23 A. Because it would not be a smart move if they
24 put their real name next to any type of records dealing
25 with narcotics.

1 MS. OLLILA: Diane, please pull up 22c.

2 Q. This is 22c, Special Agent Drouin.

3 Ms. Ollila: Now Diane, if you go to page
4 eight on 22c. Now I want you to enlarge it.

5 Q. The portion of page eight in Government's
6 Exhibit 22c, the last third of the page has been
7 enlarged. I want you to point out to the jury whether
8 you see any references to New Hampshire?

9 A. Yes.

10 Q. What is the reference to New Hampshire?

11 A. The second line.

12 Q. And what does the second line say?

13 A. Zingners pick up paper from NH dash 350.

14 Q. Based upon your training and experience, what
15 is the 350 a reference to?

16 A. \$350,000.

17 MS. OLLILA: Diane, please turn to page nine.

18 Q. You're now looking at page nine of
19 Government's Exhibit 22c. Do you see any reference to
20 NH?

21 A. Yes.

22 Q. And what is the reference you see?

23 A. The second line says Taz brought 200 pick eye
24 drop 100 BOS 100 NH.

25 Q. What is 100 NH a reference to?

1 A. A hundred pounds.

2 Q. Of what?

3 A. Marijuana.

4 Q. Is there a date above that?

5 A. Yes, July 21st.

6 Q. Of what year?

7 A. It should be 2008.

8 Q. Go to page ten. So on July 21st there was a
9 hundred dropped off, hundred pounds dropped off to NH;
10 correct?

11 A. Correct.

12 Q. Now Special Agent Drouin, you're looking at
13 page ten of this exhibit, 22c. There's a reference to
14 We 7 23. What is that a reference to?

15 A. Wednesday, July 23rd.

16 Q. And the Monday, July 21st, was referenced the
17 page before; correct?

18 A. Yes.

19 Q. For a hundred pounds dropped off to NH?

20 A. Yes.

21 Q. What is referenced with respect to NH here?

22 A. Third line, Zingners, and lokko drop 50 NH.

23 Q. What does that mean?

24 A. Another 50 pounds was brought to NH, the
25 marijuana.

1 MS. OLLILA: Diane, please turn to page 14.

2 Q. You're looking at page 14, the top quarter of
3 the page, and it says Monday 200. What does it say next
4 to Monday 200?

5 A. 100 Bos, 100 NH.

6 Q. What does Bos stand for?

7 A. Boston.

8 Q. What does NH stand for?

9 A. New Hampshire.

10 Q. What is the hundred referencing?

11 A. Hundred pounds of marijuana.

12 MS. OLLILA: Now Diane, please pull up

13 Government's Exhibit 22d and go to page seven.

14 Q. Special Agent Drouin, this is page seven of
15 22d. Do you see any reference to NH?

16 A. Yes.

17 Q. What is that reference?

18 A. It says cheez and it says two NH.

19 Q. What is that a reference to?

20 A. I believe two hockey bags to NH.

21 Q. How much typically was contained in each
22 hockey bag?

23 A. 50 pounds of marijuana.

24 Q. Please turn to page 45. Page 45 of the same
25 exhibit, the top third of that page -- the top of the

1 page says paper. What is that a reference to?

2 A. I believe it's titling the page, paper,
3 because then it's a collection of money.

4 Q. Is there any reference to New Hampshire?

5 A. Yes.

6 Q. What is the reference to New Hampshire?

7 A. NH with an arrow 275.

8 Q. What does that mean?

9 A. Picked up \$275,000 from New Hampshire.

10 Q. Please turn to page 48. Now Special Agent
11 Drouin, this calendar -- I want you to enlarge that.
12 This calendar actually lists the year. What is the
13 year?

14 A. 2008.

15 Q. The bottom of this page, which is page 48 of
16 Government's Exhibit 22d, does it have a reference to
17 New Hampshire?

18 A. Yes.

19 Q. What is the reference?

20 A. Says NH two.

21 Q. What is that a reference to?

22 A. Two bags, two hockey bags.

23 Q. Of what?

24 A. Marijuana.

25 MS. OLLILA: Diane, please pull up 22e and go

1 to page ten. Is there a date contained on this ledger,
2 Special Agent Drouin?

3 A. Yes.

4 Q. What is the date?

5 A. Sunday, August 3rd.

6 Q. And what year is that?

7 A. 2008.

8 Q. Is there a reference to New Hampshire?

9 A. Yes.

10 Q. What is the reference?

11 A. Says Lokko pickup 200,350 from NH.

12 Q. What does that mean? What is 200,350?

13 A. That's how much money they picked up.

14 Q. From whom?

15 A. NH.

16 Q. Go to page 21, please. Special Agent Drouin,
17 you are looking at page 21. Is there a reference to NH?

18 A. Yes.

19 Q. And what is the reference?

20 A. Lokko drop two NH.

21 Q. What is that a reference to?

22 A. Dropping two hockey bags to NH.

23 Q. Now go to page 28. The middle of the page on
24 page 28 has been enlarged. Is there a reference to New
25 Hampshire?

1 A. Yes.

2 Q. What is the reference?

3 A. It says resume semaine and then it says paper
4 still have NH 180.

5 Q. Do you know what resume semaine means?

6 A. Continue the week.

7 Q. In Canadian?

8 A. Yes.

9 Q. In French?

10 A. Yes.

11 Q. And paper still have, what is that a reference
12 to?

13 A. Still have to collect 180 from NH.

14 Q. Go to page 39, please. The bottom page of 39
15 toward the end, is there reference to NH?

16 A. Yes.

17 Q. What is the reference?

18 A. Cheez collect NH 200.

19 Q. What is 200 the reference to?

20 A. Cheez collects 200,000 from New Hampshire.

21 Q. Is there a date on this page?

22 A. Wednesday, August 3rd.

23 Q. Go to page 64, please. Is there a reference
24 to NH on this page?

25 A. Yes.

1 Q. What is the reference?

2 A. Auto drop two NH.

3 Q. What does that mean, auto drop?

4 A. Two hockey bags to NH they delivered.

5 Q. And generally how much was contained in each
6 hockey bag?

7 A. 50 pounds of marijuana.

8 MS. OLLILA: I have no further questions of
9 this witness, your Honor.

10 THE COURT: Mr. Sheketoff.

11 CROSS-EXAMINATION

12 BY MR. SHEKETOFF:

13 Q. Good afternoon, Agent Drouin.

14 A. Good afternoon, Mr. Sheketoff.

15 Q. Welcome to New Hampshire. So, starting with
16 those ledger books and records that the prosecutor was
17 just asking you about, was there one page in one of
18 those ledgers where a whole bunch of names were listed
19 and phone numbers were given?

20 A. I believe so, yes.

21 MR. SHEKETOFF: May I approach, your Honor?

22 THE COURT: Yes.

23 Q. I'm just going to show you this single page
24 that I have and ask you if you recognize it?

25 A. Yes.

1 Q. Okay. So that's in one of these somewhere?

2 A. Yes, it is. It's in one of the ledger books.

3 Q. Yes, just asked about it. But that actually
4 lists a lot of names?

5 A. Yes, it does.

6 Q. So, for instance, there's an NH. That's
7 somebody's name or reference to somebody; correct?

8 A. Yes.

9 Q. And then there's a phone number?

10 A. Yes.

11 Q. Okay. And there's a reference to ITL?

12 A. Yes.

13 Q. And then there's a phone number?

14 A. That's correct.

15 Q. And so on. And a lot of these references you
16 recognize from your investigation. In other words, NH,
17 you see hockey bags with a name NH on it. ITL, you saw
18 hockey bags with the name ITL on it; correct?

19 A. That's correct.

20 Q. All right. And when did this particular
21 record come into your hands?

22 A. I don't remember. It was after the arrests
23 which were on June 17, 2009. So some time after
24 June 17th.

25 Q. Okay, so the landlord for that premises after

1 you guys left found these items there and thought they
2 might be of interest and gave them to the DEA?

3 A. That's correct.

4 Q. All right. So sometime in June of 2009 or
5 shortly thereafter these came into your possession?

6 A. I believe so, yes.

7 Q. And one of the tools that you guys have in
8 your toolbox, so to speak, is you can subpoena records;
9 correct?

10 A. That's correct.

11 Q. I mean, you know, you can try and figure out
12 whose phone numbers these are?

13 A. We can try, yes.

14 Q. Right. And there are different kinds of
15 phones that people in the drug trade might have. They
16 might put a phone in their own name. They might put a
17 phone in somebody else's name. They might have
18 something called a burner phone where you just buy a
19 phone and throw it away. There are different kinds of
20 ways to conduct your business; correct?

21 A. That's correct.

22 Q. Because cell phone companies keep records of
23 these things, and one of the things you notice is that
24 people in this industry change the phones a lot?

25 A. That's correct.

1 Q. So what effort was made to find out who NH,
2 that phone number, whose phone number was that?

3 A. You're asking me whose phone number it was?

4 Q. Yeah.

5 A. I don't know.

6 Q. Okay. So what efforts were made to find out
7 whose phone number that was?

8 A. I don't remember at the time if we, I'm
9 assuming we got a subpoena and got some phone records
10 for that phone, but I don't remember who it was
11 subscribed to or anything like that.

12 Q. Okay. But you do remember making at least an
13 investigative effort to figure out who that phone number
14 was a reference to?

15 A. I believe we would have.

16 Q. Did you ever figure out by handwriting
17 analysis or any other means to your satisfaction whose
18 writing that is in there?

19 A. In some of the ledgers, yes.

20 Q. Some of the ledgers were Steven Sarti's?

21 A. Right.

22 Q. Do you know if this is a Steven Sarti ledger?

23 A. I don't remember if this is one of the ones he
24 pointed out.

25 Q. Okay. How about any other numbers on that

1 page of the ledger. Do you recognize any of the other
2 names?

3 A. I recognize just about all the names from the
4 investigation.

5 Q. And could you just tell us some of the names
6 that you recognize?

7 A. Anal, bos for Boston, Ed, Ed guy, ICE,
8 Italian, ITL, logo, NH, pink eye, Taz, Bud, and that's
9 it.

10 Q. Okay. So were you able to associate through
11 phone records any of those people like ITL, let's say,
12 with the phone?

13 A. Through phone records, no.

14 Q. Now, just to go back to this 12/30/08 video
15 that we played where you're at Nick Champagne's house
16 and there's some sort of camera taking pictures, and you
17 see somebody show up and then they leave together and
18 someone is carrying a big box, and the prosecutor said
19 to you did you know who that second person -- you
20 recognized Nick Champagne as one of them. The
21 prosecutor said do you recognize the second person and
22 you said not, you know, at that time I didn't know who
23 it was, but I later learned who it was. Who was that
24 second person?

25 A. I believe it was Frank Fowle if I recall.

1 Q. Now, sir, one of the things that the DEA has
2 available to it is a request to a judge, sometimes in
3 state court but most frequently in federal court, for a
4 wiretap application, correct?

5 A. That's correct.

6 Q. And during the course of your investigation,
7 your part of the investigation which went through these
8 arrests of 40 people or so in June of 2009, did you ever
9 apply for a wiretap?

10 A. No.

11 Q. And is it fair to say that the way you
12 understand the law, you can't get a wiretap until you've
13 -- until you've exhausted other more traditional
14 investigative means?

15 A. That's correct.

16 Q. In fact, there's a section in the affidavit
17 you have to prepare for a wiretap where you have to lay
18 out the traditional investigative means you've attempted
19 before you ask the federal court for a wiretap
20 authorization, correct?

21 A. That's correct.

22 Q. Right. Just as a generality, what are the
23 normal investigative means that you have at your
24 disposal before you were to ask for a wiretap?

25 A. There's surveillance, undercover, use of

1 informants, use of subpoenas, grand jury, undercover
2 purchases, trash pulls, there are so many different
3 investigative techniques.

4 Q. There are a lot of different tools that you
5 have. One of them that you talked to us about is a GPS
6 device; correct?

7 A. That's correct.

8 Q. And at least back in 2008 and 2009, as you
9 understood the state of the law, you could put a GPS
10 device on any vehicle without a court order; correct?

11 A. That's -- in certain circumstances, yes.

12 Q. And in connection with your part of the
13 investigation, you used a lot of GPS devices. You
14 located this one car rental agency, you stuck a lot of
15 GPS devices on a bunch of cars, and it proved fruitful;
16 correct?

17 A. Correct.

18 Q. The GPS device allows you to track the vehicle
19 without physically being in eyesight of the vehicle;
20 correct?

21 A. That's correct.

22 Q. And in realtime?

23 A. Yes, or close to.

24 Q. And one of the other things you used in
25 connection with your part of the investigation was these

1 hidden cameras; correct?

2 A. Yes.

3 Q. So there was a camera outside of Nick
4 Champagne's residence; correct?

5 A. Yes.

6 Q. And that was on what street?

7 A. It was at 10 Delaware Avenue in Manchester.

8 Q. Did you ever learn who owned that building
9 that Nick Champagne was renting?

10 A. I believe we learned it, I just don't remember
11 who it was.

12 Q. Okay. Was it a relative of Mr. Koustas?

13 A. I don't remember.

14 Q. And when did that camera go up?

15 A. I actually don't remember when it went up.

16 Q. Approximately?

17 A. So those pictures were taken -- it probably
18 would have went up in February or March.

19 Q. Of?

20 A. 2009.

21 Q. And for how long was it up?

22 A. I don't remember. I think it was only up for
23 a few weeks. I remember when we first put it up we had
24 some technical difficulties with it, so I can't remember
25 how long it was up for.

1 Q. Okay. Was that the only pole camera you used
2 or video undercover surveillance camera you used as part
3 of the investigation you were involved in?

4 A. No, there was another one that I had down in
5 Waltham when the couriers were staying in a condo down
6 there. I believe I had another one set up over in
7 Chester, at the residence in Chester looking at the
8 driveway. I think I had a few of them.

9 Q. And you don't need a court order for those;
10 correct?

11 A. That's correct.

12 Q. As long as you're placing them in a place that
13 you have a right to be, you can set up a camera and
14 watch whoever you want to watch?

15 A. Correct.

16 Q. The DEA actually has planes that are
17 surveillance planes that allows you to track people from
18 the air?

19 A. We can conduct surveillance from planes if we
20 need to, yes.

21 Q. How about -- I'm wondering about drones?

22 A. We don't use drones.

23 Q. All right. And one of the things you
24 mentioned is that you can use an undercover officer to
25 meet with somebody and talk to them; correct?

1 A. We can try to, yes.

2 Q. Right. Sometimes it's difficult because
3 people in the business tend to be suspicious of
4 strangers?

5 A. That's correct.

6 MS. OLLILA: Your Honor, I don't necessarily
7 object, but he's going way beyond the scope of direct.

8 THE COURT: I'm going to give him some leeway
9 for now. Objection overruled.

10 Q. And in this case, in your part of the
11 investigation, was there an attempt to introduce an
12 undercover officer into the investigation?

13 A. We did not, no.

14 Q. Okay. One of the things you can do is talk to
15 confidential informants; correct?

16 A. Correct.

17 Q. And one of the tools that you use with a
18 confidential informant is, if he or she agrees, they can
19 wear a body wire without a court order; correct?

20 A. That's correct.

21 Q. In other words, if I was one of your
22 informants and I was willing to, you could put a
23 recording device on me, send me to speak to anyone that
24 I told you I wanted to speak with and you could actually
25 record our conversation?

1 A. That's correct.

2 Q. Without a court order?

3 A. Yes.

4 Q. Did you use that technique during your part of
5 the investigation?

6 A. No.

7 Q. Okay. And I keep saying your part of the
8 investigation. I'm just assuming that, because you
9 stopped in June of 2009, was that the end of your
10 involvement in this investigation?

11 A. Yes.

12 Q. Okay. And one of the things you've actually
13 told us about is you have certain suspicions, you see
14 certain things occur in front of you, you see boxes move
15 from a tractor-trailer into a van, and you can't see
16 inside the box but you certainly want to know what's in
17 there, you can ask local and state police to do traffic
18 stops?

19 A. Yes.

20 Q. And that sort of disguises the real purpose,
21 the real investigative purpose because you're not
22 showing up with a badge that says DEA that you told us
23 about. You're letting somebody think he just had or she
24 had bad luck getting stopped for a traffic violation?

25 A. Yes.

1 Q. And depending on the circumstances that
2 unfold, you may be able to conduct a search of that
3 traffic stop?

4 A. That's correct.

5 Q. And you can use administrative warrants to get
6 various records of various institutions. For instance,
7 you can subpoena bank records?

8 A. Yes.

9 Q. IRS records?

10 A. Those are harder to get. I think you need a
11 grand jury subpoena for those.

12 Q. Phone records?

13 A. Yes.

14 Q. And the ultimate technique is the Title III
15 wiretap; correct?

16 A. That is an advance technique, yes.

17 Q. That you're allowed to tap phones if you make
18 the appropriate showing to a federal judge, you're
19 allowed to listen to the conversations that occur
20 simultaneously and record them; correct?

21 A. Yes.

22 Q. And you're allowed to put in what they call
23 bugs. So if there was an office that was, you had
24 probable cause to believe was being used in connection
25 with some criminal enterprise you, with a federal

1 judge's authorization, you can put a bug in there and
2 listen to all the conversations that occur?

3 A. That's correct.

4 Q. Now, do you know why Nick Champagne decided to
5 move out of his house on April 2nd of 2009?

6 A. I do not.

7 Q. But you did, through the use of the pole
8 camera, see that he did move out; correct?

9 A. Yes.

10 Q. And he relocated to another address or he,
11 after moving that furniture, went back to the same
12 place?

13 A. I don't believe he went -- I don't remember if
14 he went back or not and I don't know where he moved to.

15 Q. Did something happen just prior to April 2nd,
16 2009, that you connect with his decision to move?

17 A. I don't recall.

18 Q. Okay. In any event, whether you're a drug
19 dealer or an honest citizen, there are lots of different
20 reasons you might decide to move out of an apartment and
21 live somewhere else; correct?

22 A. Yes.

23 Q. Whether it was a fight with your significant
24 other, the end of a lease, or a million other reasons;
25 right?

1 A. That's correct.

2 Q. Was there an imminent arrest of Mr. Champagne
3 April 2nd of 2009?

4 A. No.

5 Q. And do you know if he left Manchester, New
6 Hampshire, and went into hiding after April 2nd, 2009,
7 or just moved to some other location?

8 A. I don't remember.

9 Q. In any event, there did come a time when he
10 was arrested. That was in June?

11 A. I believe so, yeah.

12 Q. And did he go into hiding at that point in
13 time --

14 A. I don't --

15 Q. -- when an arrest warrant was to be served on
16 him?

17 A. I don't remember.

18 Q. Now, over the years, and you've been doing
19 this for 18 years, the price of marijuana, at least
20 Canadian marijuana, has gone up and down or just up over
21 the years?

22 A. It's gone up and down. It depends.

23 Q. All right. So let's take, I don't know, we
24 started in 2008, 2009, and you said high quality
25 Canadian marijuana would go anywhere from 2,000 to

1 \$5,000 a pound?

2 A. Yes.

3 Q. And as we went into the future, 2010, 11, 12,
4 is it on its way up or it's on its way down?

5 A. I believe like right now it's kind of on its
6 way down because for various reasons.

7 Q. The supply is so big?

8 A. Depends on supply. There's also a big demand
9 for marijuana that's, hydroponic marijuana that's grown
10 out in California, so that's driven Canadian prices
11 down.

12 Q. What would I expect to pay for a pound of
13 marijuana from Canada, high quality marijuana now?

14 A. I'm --

15 MS. OLLILA: I object on the relevance, judge.

16 THE COURT: Overruled.

17 A. I'm not sure what you pay now because I
18 haven't done a marijuana case like this probably in the
19 last few years, so I couldn't give you an accurate
20 depiction of what the actual prices are now.

21 Q. All right. Was there a time during your
22 tenure with the DEA that the cost of a pound of Canadian
23 marijuana might be as low as \$800?

24 A. I've never seen Canadian marijuana as low as
25 \$800.

1 Q. What's the closest you've seen it to \$800?

2 A. I've seen 2,000 with the hydroponic marijuana.
3 There is some outdoor marijuana that is grown up in
4 Canada that may be a little bit less, but I haven't come
5 across it.

6 Q. Now, if I'm back in 2008 and 2009, if I'm
7 buying a pound of high quality Canadian marijuana in the
8 quantity of 50 pounds or a hundred pounds.

9 A. Yes.

10 Q. And I'm a regular customer, how much money am
11 I going to make a pound?

12 A. Well, that depends on how much you sell it
13 locally.

14 Q. Okay. Could I make, buying it for, let's take
15 the low end, for \$2,000 a pound, would it be possible to
16 make \$500 a pound?

17 A. That's possible, yes.

18 Q. Okay. Would it be possible that I'm only
19 making a hundred or \$200 a pound?

20 A. Yes.

21 Q. So it depends on a number of factors?

22 A. Depends on what you want to sell it for.

23 Q. Now, the prosecutor asked you about some of
24 these various things, and one of the bags it said
25 regular, or you at least interpreted it to be regular;

1 correct?

2 A. Yes.

3 Q. Is that a high quality marijuana or is that
4 the low end of the high quality compared to kush and I
5 forget the other one you mentioned?

6 A. From my experience in the past from
7 interviewing informants in Canada that would be more
8 towards the lower end of the hydroponic marijuana, it
9 wouldn't be as high grade as kush.

10 Q. Okay, so it would be lower in price?

11 A. Yes.

12 Q. Now, you've had a lot of experience looking at
13 these drug ledgers and you do the best you can with
14 what's written down; correct?

15 A. Yes.

16 Q. People try and be cryptic?

17 A. That's correct.

18 Q. So you find a ledger in June 2009, it talks
19 about something that happened in August, you know it's
20 not August 2009, correct, because it hasn't happened
21 yet?

22 A. Right.

23 Q. But your best guess is that's a 2008 record;
24 correct?

25 A. Yes.

1 Q. And when it says two bags or whatever it said,
2 what did it say, two, just two?

3 A. It could say two, yes.

4 Q. You're making an educated guess that that's
5 two hockey bags?

6 A. That's correct.

7 Q. And when you see a number, when you see the
8 word paper, you're making an educated guess that that's
9 money?

10 A. That's correct.

11 Q. Now, if I'm sending somebody about \$300,000
12 for something I've purchased, about how much money do
13 you think I'd put in my own pocket back in 2008, 2009?

14 A. So if you're sending --

15 Q. I'm sending somebody \$300,000, how much money
16 would I have kept myself? What kind of profit could I
17 expect to make under an investment of \$300,000?

18 A. So if you're actually using 300,000 to
19 purchase marijuana, how much marijuana could you get?

20 Q. No, yeah, how much could I get and how much
21 would I be able to make off of that. In other words, am
22 I going to become a millionaire from selling 300 pounds
23 of high grade marijuana, a half millionaire?

24 A. No, because you have to pay for the actual
25 marijuana itself. So if you're getting it for 2,000 a

1 pound, you're basically going to make whatever you
2 decided to charge on top of that to your customers. So
3 if you're buying it for 2,000 and you sell it for 25
4 hundred, you're making \$500 a pound, so, and then take
5 away expenses or whatever.

6 Q. If I'm in the business for six months or
7 eight months and I've made \$500,000, how many pounds of
8 marijuana have I sold?

9 A. I couldn't answer that.

10 Q. All right. Totally depends on how much profit
11 I'm making?

12 A. That's correct.

13 Q. Now, there are people that try to avoid
14 detection by having the same customers, regular
15 customers again and again and again; correct?

16 A. Yes.

17 Q. Was it your -- did you ever see Nick Champagne
18 deliver, other than this one videotape, deliver to
19 someone that you believe to be a customer?

20 A. To be a customer of Champagne's?

21 Q. Yes.

22 A. Other than the video --

23 Q. You have that one video with Fowle leaving
24 with a box.

25 A. Deliver to a customer of marijuana, no, I've

1 never seen that

2 THE COURT: Anything further?

3 MS. OLLILA: I have no redirect, judge.

4 THE COURT: Agent, sounds like you can go.

5 MS. OLLILA: Judge, I have two very quick
6 witnesses who have been waiting here all day. Is that
7 possible?

8 THE COURT: Very quick. We're going to break
9 at four, so, be done by then.

10 MS. OLLILA: Yes.

11 THE COURT: Go ahead.

12 MS. OLLILA: Thank you, Special Agent Drouin.
13 Richard Lapoint.

14 THE CLERK: Please remain standing and raise
15 your right hand.

16 RICHARD LAPOINT

17 having been duly sworn, testified as follows:

18 THE CLERK: Please be seated. For the record,
19 please state your full name and spell your last name.

20 THE WITNESS: Richard Lapoint, L-A-P-O-I-N-T.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MS. OLLILA:

24 Q. Good afternoon Mr. Lapoint. Thank you for
25 waiting so long. Sir, are you now retired?

1 A. I'm sorry?

2 Q. Are you now retired?

3 A. As of Sunday.

4 Q. Congratulations.

5 A. Thank you.

6 Q. Where did you retire from?

7 A. Pittsburgh, New Hampshire Police Department.

8 Q. How long were you at the Pittsburgh, New
9 Hampshire Police Department?

10 A. Ten years part time, 30 years full time.

11 Q. Were you the chief of police up in Pittsburgh?

12 A. Yes.

13 Q. For how long?

14 A. Twenty-nine years.

15 Q. How close is Pittsburgh, New Hampshire, to the
16 Canadian border?

17 A. It borders Vermont, Canada and Maine.

18 Q. Sir, were you working and employed as the
19 chief of police for Pittsburgh in June 2008?

20 A. Yes, ma'am.

21 Q. What about on June 27, 2008?

22 A. I'm sorry?

23 Q. On June 27, 2008?

24 A. Yes.

25 Q. Did something happen on that date?

1 A. Yes. I was called to a motor vehicle
2 accident.

3 Q. Okay. What did you do?

4 A. I responded to the lower state garage to meet
5 with the individual who picked up the operator of a
6 pickup truck that had an accident on one of our logging
7 roads. Once I got there I met with the individual who
8 was involved in the accident. His name was Trevor
9 Allain.

10 Q. Trevor Allain?

11 A. Yes. I asked him what had happened and he
12 said that he went into a ditch. I asked him when the
13 accident happened. He said 10:30 the prior night.

14 Q. Let me just stop you there for a moment. Sir,
15 let me show you what is marked as Government's
16 Exhibits 3c-1 and 3c-2. Do you recognize what those two
17 photographs are of, sir?

18 A. Yes.

19 Q. And the motor vehicle that got into the
20 accident, what kind of motor vehicle was it?

21 A. A Toyota Tundra 2006.

22 Q. And what is depicted in Government's Exhibit
23 3c-1?

24 A. This is where the pickup hit a ditch or a
25 culvert that had washed out the prior night. It shows

1 the pickup. It hit the further side of the ditch and
2 that's as far as it went.

3 Q. Is that the pickup truck that you were talking
4 about?

5 A. Yes, ma'am.

6 MS. OLLILA: Your Honor, I'd ask that the ID
7 be stricken on Government's 3c-1 and 3c-2.

8 THE COURT: All right, 3c-1 and 2 are full
9 exhibits.

10 (Government's Exhibit 3c-1 and 3c-2
11 admitted.)

12 Q. Please pull up 3c-1. Sir, what is this
13 picture that the jury is now seeing?

14 A. I'm sorry --

15 Q. Oh, can you see your monitor? I'm sorry about
16 that.

17 A. Okay.

18 Q. In 3c-1, you were just holding on to the
19 original photograph, now it's on your monitor to your
20 left.

21 A. Okay.

22 Q. Is that the photograph that I just showed you
23 that was depicted in 3c-1?

24 A. Yes, ma'am.

25 Q. Is that the red pickup truck that you

1 responded to?

2 A. Yes.

3 Q. Is that the accident that had happened?

4 A. That's the accident scene itself.

5 Q. And you said it was Trevor Allain that was the
6 driver?

7 A. Yes, ma'am.

8 Q. What did you do once you saw that motor
9 vehicle?

10 A. First I'd asked Mr. Allain some questions as
11 to where he was going, and his answers were very
12 evasive. He wasn't familiar with the area. I asked
13 what he was doing up there. And he said he was going to
14 work for his uncle. I asked where his uncle was
15 working. And he told me that he wasn't sure but it was
16 for a female. I asked him where the job site might be
17 and he alluded that it might be at the IGA, and that's
18 in Colebrook, New Hampshire, some ten, twelve miles from
19 where the accident scene occurred. The accident scene
20 was on a logging road that dead ends on the Canadian
21 border.

22 Q. So the accident where the jury is looking at
23 this picture, 3c-1, that's on a logging road that
24 borders on Canada?

25 A. Yes, ma'am. It dead ends on Canada. It

1 actually crosses over to what we call Hall Stream Road
2 which is the border between Canada and the United
3 States.

4 Q. Why is it called Hall Stream Road?

5 A. Why is it called --

6 Q. Is there a stream?

7 A. Yes, ma'am.

8 Q. Now, did you become suspicious of Trevor
9 Allain and what he was telling you?

10 A. Yes, based on his answers to my questions and
11 the fact that he was, he showed me a Canadian driver's
12 license and he had a Canadian passport but the truck was
13 registered in New Hampshire. That and the evasive
14 answers he gave me caused me to suspect that something
15 might be up, so I called Border Patrol to respond.

16 Q. And did Border Patrol respond?

17 A. Yes, they did.

18 Q. Did you stay with Border Patrol when they
19 ended up searching the vehicle?

20 A. I believe I left for a while, but they called
21 me right back, so I did come back to the scene.

22 Q. Let me show you what is 3c-2.

23 A. Ah-hum.

24 Q. And 3c-3. Do you recognize those photographs?

25 A. Yes, ma'am.

1 Q. Are they accurate depictions of the vehicle
2 and what was taken from the vehicle on June 27, 2008?

3 A. Yes, ma'am.

4 MS. OLLILA: I'd ask that the ID be stricken
5 on 3c-2 and 3c-3.

6 MR. SHEKETOFF: I have no objection.

7 THE COURT: All right, ID stricken, full
8 exhibits.

9 (Government's Exhibit 3c-2 and 3c-3
10 admitted.)

11 Q. Please pull up 3c-2. Sir, what was located in
12 the truck?

13 A. Prior to locating the stuff the border patrol
14 sent a dog around the truck, but what was located was
15 U.S. currency that was wrapped in like cellophane and
16 taped up and it was approximately \$275,000 I believe.

17 Q. Please pull up 3c-3. What is depicted in this
18 picture, 3c-3?

19 A. That's a duffle bag that was loaded with a lot
20 of the currency. Most of the currency was taken out of
21 the door panels, but this is where it would appear that
22 somebody was trying to load that duffle bag with the
23 currency.

24 MS. OLLILA: No further questions. Thank you,
25 sir. And congratulations again.

1 MR. SHEKETOFF: I have no questions.

2 THE COURT: All right, you may be excused,
3 sir.

4 THE WITNESS: Thank you.

5 MS. OLLILA: The United States calls Gregg
6 Woody.

7 THE CLERK: Please remain standing and raise
8 your right hand.

9 GREGORY WOODY

10 having been duly sworn, testified as follows:

11 THE CLERK: Please be seated. For the record,
12 would you please state your name and spell your last
13 name.

14 THE WITNESS: Gregory Brian Woody. Last name
15 is W-O-O-D-Y.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MS. OLLILA:

19 Q. Good afternoon, Mr. Woody.

20 A. Good afternoon.

21 Q. How are you employed?

22 A. United States Border Patrol.

23 Q. How long have you been with the U.S. Border
24 Patrol?

25 A. Since February of 2003.

1 Q. And where are you currently stationed?

2 A. Beecher Falls, Vermont.

3 Q. And where is Beecher Falls, Vermont, in
4 relation to the Canadian border?

5 A. It's right on the Canadian border, ma'am, just
6 inside the state of Vermont.

7 Q. How long have you been at the Beecher Falls,
8 Vermont, area station?

9 A. Since September of 2007, ma'am.

10 Q. Did something happen on June 27, 2008, that
11 you recall?

12 A. Yes, ma'am.

13 Q. What happened?

14 A. I was called to the scene of a crashed
15 vehicle. Chief Richard Lapoint from Pittsburgh Police
16 Department contacted me regarding the vehicle that had
17 crashed. He called me because the driver was a Canadian
18 citizen and presented a Canadian driver's license.

19 Q. What did you do?

20 A. At the time I was a border patrol K9 handler,
21 so I responded to the scene to speak to the driver
22 regarding citizenship and his status in the United
23 States.

24 Q. And once you got to the scene -- and by the
25 way, are you a K9 handler?

1 A. At the time I was. I am not now.

2 Q. So when you got to the scene, what did you end
3 up doing?

4 A. When I got to the scene I witnessed the
5 vehicle which had driven across an open washed out
6 ravine. The vehicle had sustained quite a bit of
7 damage. And I spoke to the driver of the vehicle, asked
8 him his citizenship. He stated he was a Canadian
9 citizen. He gave me his passport and his Canadian
10 driver's license.

11 Q. What was his name?

12 A. Trevor Allain.

13 Q. Please pull up 3c-1. Officer Woody, if you
14 look at the monitor to your left, I'd ask that you tell
15 the members of the jury whether or not you recognize
16 what's depicted in 3c-1. Is it on your monitor to your
17 left -- is there a picture up -- Kellie?

18 A. Yes, ma'am. That's the vehicle that was
19 crashed out.

20 Q. What did you do?

21 A. I spoke to the individual who owned the
22 vehicle. I asked him if he minded if, explained that I
23 was a border patrol K9 handler, and asked if he would
24 mind if I walked my dog around the vehicle, and he said
25 that would be fine, he basically said yes.

1 Q. What's your dog, what's the name of your dog?

2 A. Sil.

3 Q. And what breed?

4 A. German shepherd.

5 Q. Do you still have Sil?

6 A. I do.

7 Q. Is he still a drug detection dog?

8 A. He's retired.

9 Q. What did you do? Did the driver Trevor Allain
10 say that you could walk Sil around his car?

11 A. Yes, ma'am, he did give consent.

12 Q. And what did you do?

13 A. I walked Sil around the vehicle and he alerted
14 and indicated to the presence of narcotics at the rear
15 passenger door of the vehicle.

16 Q. What did you do then?

17 A. Put him away and proceeded to search the
18 vehicle.

19 Q. What is Sil's toy that you give him for a
20 reward?

21 A. A piece of rubber hose about this long.

22 Q. Did you give him his reward?

23 A. Absolutely.

24 Q. Then what did you do?

25 A. Upon opening that rear door the interior door

1 panel was already loose, all but removed, it was just
2 basically hanging there.

3 Q. Was that unusual to you?

4 A. Yes.

5 Q. Had you ever seen that before?

6 A. Yes, I have. The thing about vehicles that
7 are used for smuggling narcotics or money in this case,
8 the interior door panels are an excellent place for
9 people to try to conceal that sort of thing, and usually
10 they will open them up, tear them apart, put the money
11 or the drugs inside, then they will refasten them
12 because they have push fasteners that are very easy to
13 reattach, so, and that was the case here. The door
14 handle had been removed from the metal door frame and
15 was basically hanging there. When I opened the door, it
16 kind of sprang open and I was able to just look in and
17 see the black plastic with the tape on it from the end
18 of the door.

19 MS. OLLILA: Please pull up, Diane, 3c-2.

20 Q. Is this what you're referring to, Mr. Woody?

21 A. I can barely see --

22 Q. If you turn around, Mr. Woody.

23 A. Yes, ma'am, that's it.

24 Q. The monitor is better behind you. Can you see
25 that better?

1 A. Yes, ma'am, that's exactly it.

2 Q. What is it that the jury's looking at?

3 A. You're looking at bundles, if I may stand,
4 you're looking at bundles of cash that were taped that
5 were in black trash bags with masking tape around it.
6 When I initially saw them I thought it was drugs because
7 in my experience when you find bundles hid like that in
8 a vehicle it's usually narcotics, but upon grasping it
9 to remove it I could feel it felt like a, you know how a
10 deck of cards will kind of have that feel of a stack,
11 and that's obviously what it was.

12 Q. Please pull up 3c-3. Mr. Woody, if you turn
13 around and look at 3c-3, what is it that the jury is
14 looking at?

15 A. This is a small handbag approximately this
16 size, and I would say that would be a foot square by
17 maybe a foot deep. This was located on the center
18 console in the front of the vehicle. And the lid of
19 this, it was completely unzipped. It was, as you can
20 see, zipped on three sides, was down in and it was
21 exposed to other money that had already been removed and
22 put into this bag.

23 Q. What did you do with the currency once you
24 seized it?

25 A. We removed all the currency and we searched

1 all the door panels that were there. The currency was
2 transported back to Beecher Falls Border Patrol Station,
3 and then from that point we took it to the local bank so
4 that it could be counted.

5 Q. How much currency was seized?

6 A. \$275,999 as I recall.

7 MS. OLLILA: No further questions of this
8 witness, your Honor.

9 THE COURT: Any questions?

10 MR. SHEKETOFF: Just one briefly.

11 CROSS-EXAMINATION

12 BY MR. SHEKETOFF:

13 Q. Who was the registered owner of this vehicle?

14 A. If I could refer to my report.

15 Q. With the Court's permission, sure.

16 THE COURT: Go ahead.

17 A. The name that I have was Marco G. Lavoie.

18 Q. And did that person have an address in New
19 Hampshire?

20 A. It's been redacted on my report, but yes, it
21 was a New Hampshire registered vehicle, sir.

22 MR. SHEKETOFF: Thank you, sir.

23 THE COURT: Anything else?

24 MS. OLLILA: No.

25 THE COURT: All right, Officer Woody, you're

1 free to leave.

2 THE WITNESS: Thank you.

3 MS. OLLILA: For this next witness, judge, we
4 will need to --

5 THE COURT: Take a very, very short break.

6 MS. OLLILA: Exactly.

7 THE COURT: All right, we're going to just
8 take a couple of minutes, you can stretch your legs, and
9 then we will bring you right back in and it will be our
10 last 15, 10 minutes.

11 (Jury exited the courtroom.)

12 THE COURT: All right, question for counsel
13 before we go. Juror No. 13 has trouble walking and has
14 a cane, and I would like not to switch their numbers,
15 but just switch Juror No. 1 and Juror No. 13, their
16 seats, so that he can easily exit. Any problem keeping
17 track of that? I'm not changing their numbers. Juror
18 No. 1 will be sitting in Juror No. 13's seat.

19 MS. OLLILA: No.

20 MR. SHEKETOFF: Makes a lot of sense.

21 THE COURT: Just confirm with 13 that he's
22 comfortable with the switch and we will make that
23 happen, and that will give Terry just another moment.

24 MS. OLLILA: Sure.

25 (Pause.)

1 THE CLERK: Please raise your right hand.

2 MICHAEL BERGERON

3 having been duly sworn, testified as follows:

4 THE CLERK: Please be seated. For the record,
5 please state your name and spell your last name.

6 THE WITNESS: Michael Bergeron,
7 B-E-R-G-E-R-O-N.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MS. OLLILA:

11 Q. Thank you for waiting all day, sir.

12 A. You're welcome.

13 Q. How are you employed?

14 A. I am a patrol sergeant with the Manchester,
15 New Hampshire Police Department.

16 Q. How long have you been a patrol sergeant?

17 A. I was just promoted last July.

18 Q. In general what do you do -- before you were a
19 patrol sergeant were you on patrol?

20 A. I was. I started in patrol for approximately
21 six years, and then the time between that and the
22 current time I was a detective with the Investigations
23 Unit.

24 Q. On February 24, 2009, what was your job at the
25 Manchester Police Department?

1 A. I was assuming my regular duties as an adult
2 investigator with my partner Pat Houghton when we were
3 approached by Special Agent Garth Hamelin with the DEA
4 and Detective Chuck Anderson who was a Manchester Police
5 Department detective who was working as a task force
6 officer with the DEA.

7 Q. Did they ask you to do something?

8 A. They did.

9 Q. What did they ask you to do?

10 A. They asked us to assist with the surveillance
11 that they were performing on a subject inside the city
12 of Manchester.

13 MS. OLLILA: Diane, please pull up 9h-2.

14 Q. Sir, on your monitor, it's best if you turn
15 around, it's much easier to see if you turn around.

16 A. Okay.

17 Q. You can also look on your monitor but the
18 other, it's probably easier to look behind you, but
19 whichever you prefer.

20 A. This one's on now.

21 Q. Okay. So, do you see a vehicle depicted in
22 9h-2?

23 A. I do.

24 Q. What is that picture of?

25 A. That was the target vehicle for that night.

1 Q. And do you follow that vehicle?

2 A. I did.

3 Q. Were you in a marked patrol car?

4 A. It was unmarked but it was a Chevy Impala, it
5 is equipped with lights and siren.

6 Q. Did you stop that vehicle, the vehicle that's
7 depicted in 9h-2?

8 A. I did.

9 Q. And did you stop it at the request of Special
10 Agent Garth Hamelin with the DEA?

11 A. We did.

12 Q. And what happened when you stopped it?

13 A. Myself and Detective Houghton approached the
14 vehicle. Detective Houghton identified the driver as a
15 David Coulombe. I stayed on the passenger side of the
16 vehicle and made observations.

17 Q. And what were the observations you made?

18 A. I observed two large plastic shopping style
19 bags in the front passenger compartment and a large
20 duffle bag in the back seat.

21 Q. Please pull up 9h-3. What is this that the
22 jury is looking at in picture 9h-3?

23 A. Those are the two plastic shopping bags in the
24 front seat. There's a larger white one and a smaller
25 gray one to its left on the front passenger side floor.

1 Q. Do you know what those bags contain?

2 A. I do.

3 Q. What did they contain?

4 A. Marijuana.

5 MS. OLLILA: Your Honor, I'd ask that the
6 witness step down from the witness stand.

7 THE COURT: He may.

8 Q. Sir, I'm showing you what has been marked as
9 9g-1a. And if you look at the photograph there's a
10 white bag. Do you see that same white bag that is in
11 9g-1a?

12 A. I do.

13 Q. Could you please hold it up for the jury.

14 A. (Witness doing so.)

15 Q. What is contained in that bag?

16 A. Individual bags of marijuana.

17 Q. Is that the marijuana that you ended up
18 seizing?

19 A. It is.

20 Q. Was it tested?

21 A. It was.

22 Q. Did it test positive for the presence of
23 marijuana?

24 A. It did.

25 MS. OLLILA: Your Honor, I ask that the ID be

1 stricken on 9g-1a and entered in as a full exhibit.

2 MR. SHEKETOFF: No objection.

3 THE COURT: All right, full exhibit.

4 (Government's Exhibit 9g-1a
5 admitted.)

6 Q. Sir, I'd ask that you hold up one of these
7 bags of marijuana so that the jury can see it and
8 indicate whether there's any writing on it?

9 A. There is.

10 Q. What is the writing?

11 A. M39.

12 Q. Do you know whether or not that's a strain of
13 marijuana?

14 A. I do not.

15 Q. Okay. Now, let me show you what is marked as
16 9g-2a, and I'll draw your attention back to the
17 photograph on the monitor. Do you see another bag,
18 plastic bag in that front passenger side seat other than
19 the white bag?

20 A. I do, the small gray one to its left.

21 Q. I'm now showing you a small gray bag that was
22 in 9g-2a. What is that?

23 A. This is the same bag that was in the front
24 seat of the Ford Explorer.

25 Q. What's contained in that bag?

1 A. Marijuana.

2 Q. Was the marijuana tested?

3 A. It was.

4 Q. Did it test positive for the presence of
5 marijuana?

6 A. It did.

7 Q. At some point in time you indicated that there
8 was a duffle bag in the back seat, is that what you
9 said?

10 A. Correct.

11 Q. Did you end up seizing that duffle bag?

12 A. We did.

13 Q. I'm showing you what has already been entered
14 into full evidence as 9g-3. Is this the duffle bag?

15 A. It is.

16 Q. Does it have a label on it?

17 A. It does.

18 Q. And what does the label say?

19 A. NH.

20 Q. Was something contained in this duffle bag?

21 A. It was 50 individual bags of marijuana.

22 Q. Now, let me show you what has been marked as
23 9g-2 and 9g-1. These are boxes. Did law enforcement
24 place the marijuana in these boxes and take it out of
25 the duffle bag?

1 A. Yes.

2 Q. What is contained in these boxes, 9g-1 and 2?

3 A. Twenty-five individual bags in each box of
4 marijuana.

5 Q. Would you please hold it up and show it to the
6 jury. If you can go toward the end.

7 So what was the weight in that blue duffle
8 bag?

9 A. Approximately 50 pounds.

10 Q. Was it tested?

11 A. It was.

12 Q. Did it test positive for the presence of
13 marijuana?

14 A. It did.

15 Q. And the approximate amount of how much?

16 A. Fifty pounds.

17 MS. OLLILA: Your Honor, I'd ask that the ID
18 be stricken on Government's Exhibit 9g-2 and 9g-1 and
19 that both be entered into full evidence.

20 MR. SHEKETOFF: No objection.

21 THE COURT: 9g-1 and 2 full exhibits.

22 (Government's Exhibit 9g-1 and 9g-2
23 admitted.)

24 MS. OLLILA: Nothing further.

25 THE COURT: All right. Anything, Attorney

1 Sheketoff?

2 MR. SHEKETOFF: I can't think of anything,
3 your Honor.

4 THE COURT: All right. Well, Sergeant
5 Bergeron, I think you are done, so you may be excused,
6 sir.

7 THE WITNESS: Thank you very much.

8 THE COURT: You're welcome. All right, and we
9 are at the close of today. So you are done, but I have
10 to give you one instruction as you leave, and this will
11 be familiar to you. I will speak up, all right, let me
12 get my microphone. Can you hear me better now? All
13 right. Thank you. Okay.

14 We are breaking for the day today and I want
15 to remind you of the instructions I gave you earlier.
16 Until the trial is over you're not to discuss this case
17 with anyone including your fellow jurors, members of
18 your family, people involved in the trial or anyone
19 else. If anyone approaches you and tries to talk to you
20 about the case, do not tell anyone about it, don't talk
21 to your fellow jurors about it, but advise me
22 immediately. Tell the court security officer or the
23 deputy clerk. I would need to know and ask you
24 questions, okay? So it's very important that you do not
25 speak to anyone or have anyone speak to you about the

1 case.

2 You may not use technology or social media to
3 communicate with anyone electronically about this case.
4 And again, do not read or listen to any news reports of
5 the trial, do not look at information about anything
6 related to the case, and remember to keep an open mind
7 until all the evidence has been received and you've
8 heard the views of all your fellow jurors.

9 We are going to be back here at 9 a.m.
10 tomorrow. We're going to do a half-hour lunch break to
11 move and get more evidence in during the day, and that's
12 for you, per your request. So bring your lunch and
13 we'll be prepared to hopefully only have a half an hour
14 lunch break, and the attorneys are learning that as well
15 right now. We will end at four tomorrow. All right?

16 We'll see you at 9 a.m.

17 (Jury exited the courtroom.)

18 THE COURT: Is there anything that counsel
19 needs to address. Anything, Attorney Sheketoff?

20 MR. SHEKETOFF: No, your Honor.

21 THE COURT: You cannot think of anything. All
22 right, Attorney Ollila?

23 MS. OLLILA: No, judge.

24 THE COURT: May I ask counsel to gather your
25 things and just meet me briefly in the back room to

1 discuss tomorrow and then I'll let you go.

2 MS. OLLILA: Sure.

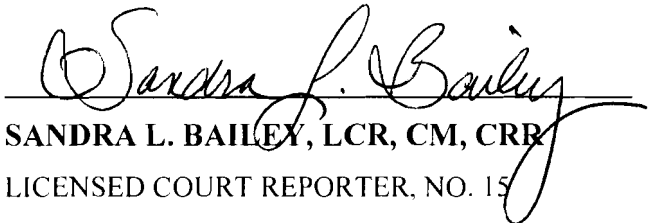
3 THE COURT: All right?

4 (Court adjourned at 4:00 p.m.)

11
12 C E R T I F I C A T E

13
14 I, Sandra L. Bailey, do hereby certify that
15 the foregoing transcript is a true and accurate
16 transcription of the within proceedings, to the best of
17 my knowledge, skill, ability and belief.

18
19
20 Submitted: 3/31/2016

21  -
22 SANDRA L. BAILEY, LCR, CM, CRR
23 LICENSED COURT REPORTER, NO. 15
24 STATE OF NEW HAMPSHIRE
25